

*Lucy*

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
ACE GALVANIZING COMPANY, )  
 )  
Appellant, )  
 )  
v. )  
 )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
 )  
Respondent. )

PCHE No. 806

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER being the appeal of a \$100 civil penalty for an alleged smoke emission in violation of respondent's Regulation I; having come on regularly for hearing before the Pollution Control Hearings Board on the 7th day of July, 1975, at Seattle, Washington; and appellant, Ace Galvanizing Company, appearing through its president, David A. Breiwick and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board member present at the hearing being Chris Smith, Chairman and hearings examiner David Akana presided and the Board having

1 considered the testimony, exhibits, records and files herein and  
2 having considered the contentions of the parties and having entered  
3 on the 16th day of July, 1975, its proposed Findings of Fact,  
4 Conclusions of Law and Order, and the Board having served said  
5 proposed Findings, Conclusions and Order upon all parties herein  
6 by certified mail, return receipt requested and twenty days having  
7 elapsed from said service; and

8 The Board having received no exceptions to said proposed  
9 Findings, Conclusions and Order; and the Board being fully  
10 advised in the premises; now therefore,

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
12 Findings of Fact, Conclusions of Law and Order, dated the 16th day  
13 of July, 1975, and incorporated by this reference herein and  
14 attached hereto as Exhibit A, are adopted and hereby entered as  
15 the Board's Final Findings of Fact, Conclusions of Law and Order  
16 herein.

17 DONE at Lacey, Washington, this 18<sup>th</sup> day of August, 1975.

18 POLLUTION CONTROL HEARINGS BOARD

19   
20 CHRIS SMITH, Chairman

21   
22 W. A. GISSBERG, Member  
23

24  
25  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER

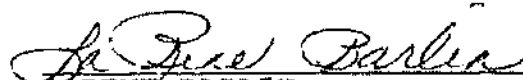
CERTIFICATION OF MAILING

I, LaRene Barlin, certify that I deposited in the United States mail, copies of the foregoing document on the 19th day of August, 1975, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. David A. Breiwick, President  
Ace Galvanizing, Inc.  
429 South 96th Street  
Seattle, Washington 98108

Mr. Keith D. McGoffin  
Burkey, Marsico, Roval, McGoffin,  
Turner and Mason  
P. O. Box 5217  
Tacoma, Washington 98405

Puget Sound Air Pollution Control Agency  
410 West Harrison Street  
Seattle, Washington 98119



LARENE BARLIN

POLLUTION CONTROL HEARINGS BOARD

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
ACE GALVANIZING COMPANY, )  
Appellant, )  
v. )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
Respondent. )

PCHB No. 806

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$100 civil penalty for an alleged smoke emission in violation of respondent's Regulation I, came before the Pollution Control Hearings Board, Chris Smith, Chairman, in Seattle on July 7, 1975. David Akana, Hearings Examiner, presided.

Appellant was represented by its President, David A. Breiwick; respondent appeared through its attorney, Keith D. McGoffin. Jenni Roland, Olympia court reporter, recorded the proceedings.

Witnesses were sworn and testified. Exhibits were admitted.

Having heard the testimony, having examined the exhibits, and

EXHIBIT A

1 Having considered the contentions of the parties, the Pollution Control  
2 Hearings Board makes the following

3 FINDINGS OF FACT

4 I.

5 Respondent, pursuant to Section 5, chapter 69, Laws of 1974, 3d  
6 Ex. Sess. (RCW 43.21B.260), has filed with this Board a certified copy of  
7 its Regulation I containing respondent's regulations and amendments  
8 thereto.

9 II.

10 Section 9.03 of respondent's Regulation I provides that it shall  
11 be unlawful to cause or allow the emission of an air contaminant for more  
12 than three minutes in any one hour, which emission was of such opacity as  
13 would obscure an observer's view to a degree equal to or greater than  
14 40 percent opacity. Section 9.03(e) provides that Section 9.03 does  
15 not apply if an emission is only uncombined water. Section 3.29 provides  
16 for a civil penalty of up to \$250 per day for each violation of Regulation  
17 I.

18 III.

19 Appellant operates a galvanizing process plant located at 429 South  
20 96th Street in Seattle. At this plant, appellant maintains a building  
21 which houses several tanks containing liquids used in the galvanizing  
22 process.

23 IV.

24 On January 20, 1975, respondent's inspector observed an emission  
25 from an opening in the building of appellant's plant. A test observation  
was made for eight minutes. During this period, the inspector observed

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

an emission ranging from 60 to 80 percent opacity for six minutes. A notice of violation was issued for this emission. From this notice of violation, a civil penalty in an amount of \$100 was assessed, which penalty is the subject matter of this appeal.

V.

Appellant contended that the emission observed was steam from its water-quench tank. Respondent's inspector did not check the particular source of the emission. However, appellant did not satisfactorily establish that the emission was only steam. Rather, the Board was left to speculate as to the nature of the emission.

VI.

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings, the Board comes to these

CONCLUSIONS OF LAW

I.

On January 20, 1975, appellant violated Section 9.03 of respondent's Regulation I. Appellant did not prove that the emission from its building was, in fact, steam.

II.

The penalty assessed is reasonable.

III.

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions, the Pollution Control Hearings Board enters this

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

ORDER

The assessment of the \$100 civil penalty is affirmed.

DATED this 16th day of July, 1975.

POLLUTION CONTROL HEARINGS BOARD

Chris Smith  
CHRIS SMITH, Chairman

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER